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9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 ALVARO HECTOR MARTINEZ,

16 Defendant.

No. 5:22-CR-00147-FLA

GOVERNMENT'S SENTENCING POSITION

Hearing Date: December 13, 2024

Hearing Time: 11:00 a.m.

Location: Courtroom of the
Hon. Fernando L.
Aenlle-Rocha

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18 Plaintiff United States of America, by and through its counsel
19 of record, the United States Attorney for the Central District of
20 California and Assistant United States Attorney Amanda Elbogen,
21 hereby files its Sentencing Position for defendant ALVARO MARTINEZ

22 This Sentencing Position is based upon the attached memorandum
23 of points and authorities, the files and records in this case, and
24 such further evidence and argument as the Court may permit.

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1 The government respectfully requests the opportunity to
2 supplement its position or respond to any positions asserted by the
3 defense or the United States Probation and Pretrial Services Office
4 as may become necessary.

5
6 Dated: December 2, 2024

Respectfully submitted,

7 E. MARTIN ESTRADA
8 United States Attorney

9 DAVID T. RYAN
10 Assistant United States Attorney
11 Chief, National Security Division

12 /s/
AMANDA B. ELBOGEN
Assistant United States Attorney

13 Attorneys for Plaintiff
14 UNITED STATES OF AMERICA
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MEMORANDUM OF POINTS AND AUTHORITIES**I. INTRODUCTION**

Defendant Alvaro Hector Martinez pled guilty to possession with intent to distribute more than 15 kilograms of methamphetamine (Count 3 of the indictment) and being a felon in possession of a firearm (Count 6 of the indictment). Defendant now awaits sentencing. The government respectfully recommends that this Court sentence defendant to 180 months' imprisonment; a five-year term of supervised release; no fine; and the mandatory \$100 special assessment.

II. STATEMENT OF FACTS

On February 10, 2021, a confidential source ("CS") working with the Drug Enforcement Administration ("DEA") reached out to a Sinaloan drug trafficker named "Bebe" asking to purchase methamphetamine and fentanyl pills. Bebe told the CS that he would supply bulk methamphetamine and fentanyl through the defendant, his Los Angeles associate. Later that day, and acting at Bebe's direction, defendant sold approximately 872 grams of methamphetamine to the CS.

Approximately one month later, on March 15, 2021, the CS called Bebe to order 40 pounds of methamphetamine, two kilograms of heroin, and 5,000 fentanyl pills. Bebe agreed to supply the CS with those drugs through the defendant. On March 15, 2021, DEA Agents observed defendant leave a residence in Perris, California ("the Spring Street residence"). At that time, Riverside County Sheriff's Deputies conducted a traffic stop of defendant's car. In his car, defendant possessed 35 packages containing approximately 15.43 kilograms of pure methamphetamine. Defendant possessed the pure methamphetamine with the intent to distribute it.

1 Following the traffic stop, agents executed a search warrant at
2 the Spring Street residence. There, they found five containers of
3 methamphetamine weighing approximately 8.534 kilograms, a Sturm,
4 Ruger, and Co., .233 caliber Mini-I4 semi-automatic rifle, bearing
5 serial number 180-32701, a Stoeger, 9mm Cougar 8000-F, bearing serial
6 number T6429-08-A020238, and a Hispano Argentina De Automotives SA,
7 .45 caliber 1911AI semi-automatic pistol, bearing serial number I-
8 00803, and ammunition, namely, four rounds of Federal Cartridge .300
9 Winchester caliber ammunition, three rounds of Remington-Peters .300
10 Winchester caliber ammunition, three rounds of Federal Cartridge 9mm
11 Luger ammunition, eleven rounds of Guilio, Fiocchi, Lecco 9mm Luger
12 ammunition, one round of Winchester Western .300 caliber ammunition,
13 and sixteen rounds of Eldorado Cartridge Corporation .45 auto caliber
14 ammunition. Each of these firearms and ammunition had been shipped
15 or transported from one state to another or between a foreign nation
16 and the United States. Defendant knowingly possessed these firearms
17 and ammunition.

18 At the time defendant possessed the firearms and ammunition,
19 defendant knew he was a felon who had been convicted of the following
20 crimes, each punishable by imprisonment for a term exceeding one
21 year: (1) Grand Theft of Personal Property, in violation of
22 California Penal Code Section 487(a), in the Superior Court for the
23 State of California, County of Los Angeles, Case Number PA076446, on
24 or about September 25, 2014; and (2) Possession of a Firearm by a
25 Felon, in violation of California Penal Code Section 29800(a)(1), in
26 the Superior Court for the State of California, County of Los
27 Angeles, Case Number BA416740, on or about January 10, 2014.

1 **III. THE ADVISORY SENTENCING GUIDELINES CALCULATIONS**

2 **A. Probation's Calculation of the Guidelines Range**

3 The United States Probation and Pretrial Services Office
4 ("Probation") calculated defendant's total offense level at 37 and
5 defendant's criminal history category at III, resulting in an
6 advisory Guidelines range of 262 to 327 months.

7 For the offense level, consistent with the plea agreement,
8 Probation calculated a base offense level of 38. (U.S.S.G. §§
9 2D1.1(a)(5), (c)(1); PSR ¶ 36.) Also consistent with the plea
10 agreement, Probation added two levels because the defendant possessed
11 a dangerous weapon (U.S.S.G. § 2D1.1(b)(1); PSR ¶ 37.) After applying
12 a three-level reduction for acceptance of responsibility, Probation
13 determined defendant's total offense level is 37.¹ (U.S.S.G.
14 § 3E1.1(b); PSR ¶ 47.)

15 Probation calculated six criminal history point for the
16 defendant, establishing a criminal history category of III. (PSR
17 ¶ 56.) Based on a total offense level of 37 and a criminal history
18 category of III, Probation calculated an advisory Guidelines range of
19 262 to 327 months' imprisonment. (PSR ¶ 107.)

20 **IV. THE GOVERNMENT'S RECOMMENDED SENTENCE**

21 **A. A 180-Month Custodial Sentence is Just and Appropriate**

22 The government respectfully recommends that the Court sentence
23 defendant to 180 months' imprisonment, followed by a five-year period
24 of supervised release. Such a sentence is sufficient, but not
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26

27 ¹ Defendant pleaded guilty and has accepted responsibility for
28 his offense. Consistent with the plea agreement, the government
therefore recommends and hereby moves for a three-level reduction in
the applicable offense level pursuant to U.S.S.G. § 3E1.1(b).

1 greater than necessary, to achieve the purposes set forth in 18
2 U.S.C. § 3553(a).

3 The nature and circumstances of defendant's offense warrant the
4 government's recommended sentence. See 18 U.S.C. § 3553(a)(1).
5 Defendant's conduct is serious. Defendant possessed with intent to
6 distribute over 15 kilograms of methamphetamine, a highly dangerous
7 drug, which he was prepared to sell to the CS. He had also
8 previously sold approximately 827 grams of methamphetamine to the
9 same CS.

10 There are, however, several mitigating factors. As an initial
11 matter, defendant has been wholly compliant with the terms of his
12 pretrial release, and accepted responsibility for the offense.
13 Further, it appears defendant experienced an extremely difficult and
14 unstable childhood, living with an addict mother who was neglectful
15 and abusive when he wasn't being removed from her custody to live in
16 foster care or with relatives. Despite these obstacles, defendant,
17 by all accounts, appears to have grown into a stable and dedicated
18 husband and father to his three young children.

19 On balance, therefore, the government believes defendant's
20 history and characteristics and the nature and circumstances of his
21 offense warrant a lower sentence of 180 months' imprisonment. This
22 sentence would satisfy the need to punish defendant, as well as
23 society's need to reflect the seriousness of the offense; promote
24 respect for the law; provide just punishment; afford adequate
25 deterrence; and protect the public. 18 U.S.C. § 3553(a)(2).

26 **B. A 5-Year Term of Supervised Release Is Just And Appropriate**

27 The government recommends that the Court impose a five-year term
28 of supervised release. Given the seriousness of the instant offense

1 and the other considerations noted above, a five-year period of
2 supervised release is necessary to provide defendant with oversight
3 and supervision after his release from prison. See United States v.
4 Johnson, 529 U.S. 53, 59 (2000) ("Congress intended supervised
5 release to assist individuals in their transition to community
6 life."); S. Rep. No. 98-225, at 124 (1983) (describing the "primary
7 goal" of supervised release as providing "rehabilitation").

8 **C. Fine & Special Assessment**

9 The government agrees with Probation that defendant does not
10 appear to have the ability to pay a fine. (PSR ¶ 95.) However, a
11 special assessment of \$100 is mandatory, per 18 U.S.C. § 3013.

12 **V. CONCLUSION**

13 For the foregoing reasons, the government respectfully requests
14 that this Court sentence defendant to 180 months' imprisonment,
15 followed by a five-year period of supervised release; a \$100 special
16 assessment; and no fine.